

Central Intelligence Agency



Washington, D.C. 20505

28 FEB 1987

OIS 87-019

The Honorable George Bush  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

Submitted herewith, pursuant to the provisions of 5 U.S.C. §552(d), is the report of the Central Intelligence Agency concerning its administration of the Freedom of Information Act (FOIA) during calendar year 1986.

This was another year of achievement in terms of our commitment to reduce our backlog of requests for information. Despite an increase of 10 percent in the number of incoming requests, compared with the number received in 1985 (3094 compared with 2804), we were able to complete 3580 requests. Our backlog of 1661 cases at the end of 1985 was thus reduced to 1175 at the end of 1986, a reduction of 29 percent. Of the 3094 new requests, 1526 were FOIA cases, 1312 were "my file" requests processed under the Privacy Act, and 256 were for mandatory review under Executive Order 12356.

The Agency's semi-annual reports to Congress, required by the CIA Information Act, have been sent for the last two years to the Senate Committee on the Judiciary, the Senate Select Committee on Intelligence, the House Permanent Select Committee on Intelligence, and the House Committee on Government Operations. In those reports we included statistics for the median response time in handling FOIA requests. Representative English, Chairman of the Government Information, Justice, and Agriculture Subcommittee of the Committee on Government Operations, found that statistic particularly useful in assessing our performance and asked that we continue to include our response time in the annual reports. For the FOIA cases on which responses were completed in 1986, the median response time was 3.24 months. This is a considerable improvement over the median response time of 9.2 months reported in October 1985 for the period of March to September 1985. October 1985 was the first time this calculation was made.

The CIA Information Act has contributed significantly to the reduction of both our backlog and our response time because Intelligence Officers no longer have to spend time reviewing a large volume of unreleasable operational documents. They can now devote their efforts to documents that possibly can be released, thus speeding up the processing of requests that have some potential for adding to the public's knowledge. We have also concentrated part of

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our manpower on completing our older requests. In most instances, these are massive cases that require the efforts of several analysts over a long period of time. Again this year we reduced the number of open cases received prior to 1980 by over half. At the beginning of 1986 there were 96 pre-1980 cases still open; at year's end there were only 34. There are only 26 cases received in 1980 that remain open, bringing our total remaining pre-1981 cases to 60 with the inclusion of an additional year. More complete details of our production/workload statistics for CY 1986 are enclosed at Tab A. There were 158 new administrative appeals received this year. With the completion of 178 appeals, our appeals workload was reduced by 20 cases, bringing our total of open appeals to 166.

During 1986 our manpower input to FOIA/PA processing was 107 manyears -- a level consistent with recent years. This continues to represent a significant burden to the Agency in terms of both personnel and funds diverted from our primary mission. This is true for two reasons. First, even with the passage of the CIA Information Act and the exemption of operational files, operational documents found in other files must be reviewed for release by professional officers working on the area concerned. This means that they must be diverted from their intelligence duties to conduct the review. Second, discounting expenditures for space, equipment, and overtime differential, all of which remain high, the expenditure of funds continued at about the same level as in 1985. Since 1975 we estimate that the Agency has spent over \$36 million in personnel costs alone for processing information requests -- \$20.7 million for FOIA. Although we are allowed under FOIA to charge fees for records searches and duplication, these fees are inadequate for recovering even a small portion of the costs. The Agency has, since 1975, collected only \$105,086 in fees. When compared with funds expended for administering the FOIA, this continues to represent a return of only one-half cent on the dollar. Because of the number of fee waivers and reductions granted, the Agency collected only \$4,877 in fees and advance deposits during CY 1986 -- about half that of CY 1985. The fee waiver provisions in the Freedom of Information Reform Act, passed in late 1986, will further reduce our fee collections during the coming year.

During 1986 we continued to benefit from the effects of the CIA Information Act. First, we have been able to concentrate our efforts more productively on potentially releasable records to the benefit of the requesters. Second, and more importantly, the time

formerly spent in searching for and processing sensitive operational files can now be devoted to other requests and to carrying out the Agency's primary missions. We are encouraged by our continued improvement in the reduction of our backlog and response time and will make every effort to show further improvement during CY 1987.

Sincerely,

~~/s/ William F. Donnelly~~

William F. Donnelly  
Deputy Director  
for  
Administration

Enclosures

Central Intelligence Agency



Washington, D.C. 20505

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OIS 87-019

The Honorable James C. Wright  
Speaker of the House of Representatives  
Washington, DC 20515

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Sincerely,

~~/S/ William F. Donnelly~~

William F. Donnelly  
Deputy Director  
for  
Administration

Enclosures

FREEDOM OF INFORMATION ACT  
ANNUAL REPORT TO THE CONGRESS FOR THE YEAR 1986

1. Total number of initial determinations not to comply with a request for records made under subsection 552(a): 850

There were 680 other FOIA cases in which the requesters were neither given access to nor denied the records sought. None of these cases was regarded as a denial, however, inasmuch as the Agency was either prepared to act upon the request or there proved to be no records to act upon. Accordingly, these 680 have not been included in the 850 figure provided in answer to question No. 1 above. In 249 instances, our searches uncovered no records relevant to the request. In 11 other cases, we found no CIA-originated records, but did locate in our files pertinent documents created by another agency, which were subsequently referred to the agency of origin for review and direct response to the requesters. There were 73 instances in which the information requested was not related to the CIA's activities, and the requester was thus referred to the agency or agencies having cognizance over the records. In 7 cases, requesters appealed on the basis of our failure to respond within the statutory deadline; in another 4 cases, the requesters chose not to exercise their right to administrative appeal and went directly into litigation for the same reason. In each of these instances, therefore, the initial processing of the requests progressed into the Agency's appellate or litigation channels. Seventeen requests were withdrawn by the requesters after processing had commenced, but before action on them could be completed. Finally, 319 cases were canceled by the Agency because of the failure of requesters to respond to letters asking for clarification, additional identifying information, notarized releases from third parties, fee payments, fee deposits, or written commitments that all reasonable search and/or copying fees would be paid, etc. In each of the latter cases, at least 60 days had elapsed without a reply from the requester before action was taken to discontinue processing.

2. Authority relied upon for each such determination:

(a) Exemptions in 552(b):

<u>Exemption involved</u>	<u>Number of times (i.e., requests) invoked</u>
(b) (1)	732
(b) (2)	6
(b) (3)	792
(b) (4)	9
(b) (5)	22
(b) (6)	83
(b) (7)	21
(b) (8)	0
(b) (9)	0

(b) Statutes invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times (i.e., requests) invoked</u>
50 U.S.C. 403(d)(3) and/or 50 U.S.C. 403g	792

(c) Other authority: None3. Appeal Determinations:(a) Total number of administrative appeals from adverse initial decisions received in 1986 made pursuant to subsection (a)(6): 95

In six other cases, requests which were initially processed under the provisions of the Privacy Act were processed under the Freedom of Information Act upon appeal, in accord with the wishes of the appellants. These were requests for access to personal records, which the CIA usually processes under the Privacy Act rather than the Freedom of Information Act.

(b) Number of all appeals closed in 1986 in which, upon review, request for information was granted in full: None(c) Number of all appeals closed in 1986 in which, upon review, request for information was denied in full: 73(d) Number of all appeals closed in 1986 in which, upon review, request was denied in part: 224. Authority relied upon for each such appeal determination:(a) Exemptions in 552(b):

<u>Exemption invoked</u>	<u>Number of times (i.e., appeals) invoked</u>
(b) (1)	88
(b) (2)	2
(b) (3)	93
(b) (4)	0
(b) (5)	1
(b) (6)	10
(b) (7)	5
(b) (8)	0
(b) (9)	0



(b) Statutes invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times (i.e., appeals) invoked</u>
50 U.S.C. 403(d) (3) and/or 50 U.S.C. 403g	93

5. Names and titles of those persons who, on appeal, were responsible for the denial in whole or in part of records requested and the number of instances or participation of each:

<u>Name</u>	<u>Title</u>	<u>No. of instances of participation</u>
Donnelly, William F.	Deputy Director for Administration	8
Kerr, Richard J.	Deputy Director for Intelligence	21
Hauver, Carroll L.	Inspector General	7
George, Clair E.	Deputy Director for Operations	66
Hineman, Richard E.	Deputy Director for Science and Technology	6

6. Provide a copy of each court opinion or order giving rise to a proceeding under subsection (a) (4) (F), etc.: None

7. Provide an up-to-date copy of all rules or regulations issued pursuant to or in implementation of the Freedom of Information Act (5 U.S.C. 552):

STAT  submitted with the 1983 report is still valid.

8. Provide separately a copy of the fee schedule adopted and the total dollar amount of fees collected for making records available:

See Tab B for a copy of the fee schedule.

The total amount collected and transmitted for deposit in the U.S. Treasury during 1986 was \$4877.20.

9. (a) Availability of records:

As the CIA does not promulgate materials as described in 5 U.S.C. 552(a)(2) (A)-(C), no new categories have been published.

In the case of each request made pursuant to the Freedom of Information Act, all reasonably segregable portions of records are released.

(b) Costs:

A total of 193,269 actual man-hours of labor was devoted during calendar year 1986 to the processing of Freedom of Information Act, Privacy Act, and mandatory classification review requests, appeals, and litigations. Taking into account leave and holidays, this would equate to approximately 107 full-time personnel. We estimate the average grade for professional employees at GS-12/7, and for non-professional employees at GS-07/6. The funds expended during calendar year 1986 on personnel salaries, if overtime payments are ignored, would thus amount to \$3.53 million. If fringe benefits such as retirement and hospitalization are factored in as amounting to 10 percent of the salaries, the total personnel costs come to \$3.9 million. Of this total, approximately \$2.5 million can be attributed to the Freedom of Information Act.

(c) Compliance with time limitations for Agency determinations:

(I) Provide the total number of instances in which it was necessary to seek a 10-day extension of time: None

The Agency's processing backlogs have been such that in almost all instances the deadlines for responding to requests and appeals expired prior to our actually working on them. We were seldom in a position, for that reason, to assert that any of the three conditions upon which an extension must be based existed. We have, accordingly, explained the problem to requesters and appellants and apprised them of their rights under the law.

(II) Provide the total number of instances in which court appeals were taken on the basis of exhaustion of administrative procedures because the Agency was unable to comply with the request within the applicable time limits: 2

Both actions were brought under FOIA.

(III) Provide the total number of instances in which a court allowed additional time upon a showing of exceptional circumstances, together with a copy of each court opinion or order containing such an extension of time: None

(d) Internal Memoranda: None

## Production/Workload Statistics

	<u>FOIA</u>	<u>PA</u>	<u>EO*</u>	<u>TOTALS</u>	<u>%</u>
<b>Workload:</b>					
Cases carried over from 1985	941	509	211	1661	(35.0)
Cases logged during 1986	<u>1526</u>	<u>1312</u>	<u>256</u>	<u>3094</u>	(65.0)
Totals	<u>2467</u>	<u>1821</u>	<u>467</u>	<u>4755</u>	
<b>Actions taken:</b>					
Granted in full	279	483	46	808	(22.6)
Granted in part	406	357	170	933	(26.1)
Denied in full	444	167	72	683	(19.1)
No records found	249	401	0	650	(18.2)
No CIA records found	11	5	0	16	( 0.4)
Canceled	319	58	3	380	(10.6)
Withdrawn	17	1	0	18	( 0.5)
Referred elsewhere	73	7	0	80	( 2.2)
Early appeal	7	0	0	7	( 0.2)
Early litigation	<u>4</u>	<u>1</u>	<u>0</u>	<u>5</u>	( 0.1)
Totals:	<u>1809</u>	<u>1480</u>	<u>291</u>	<u>3580</u>	(100.0)
Cases carried over to 1987	658	341	176	1175	
Change in workload	-283	-168	-35	- 486	(-29.2)

\*These are requests processed under the mandatory classification review provision of Executive Order 12356. Most of them are either referrals from the Presidential Libraries or declassification requests from other Federal agencies.

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IPD/ [redacted] 18 February 1987

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- 1 - DDO/IRO w/report
- 1 - DDI/IRO w/report
- 1 - DDO/IMS/FPLG w/report
- 1 - O/DCI/FOI w/report
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